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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SUSAN FLANNIGAN,

Plaintiff,

v.

VULCAN CAPITAL MANAGEMENT,
INC. and VULCAN ADVANCED MOBILE
POWER SYSTEMS, LLC aka VULCAN
AMPS, LLC,

Defendants.

C05-7404 BSJ (TSZ)

MINUTE ORDER

Having conducted a pretrial conference on April 22, 2009, at which (i) plaintiff, (ii) Marc Stadtmauer, counsel for plaintiff, and (iii) Michael Schmidt, counsel for defendants, appeared, the Court now enters the following Minute Order:

(1) With regard to the Court's proposed jury instructions, counsel shall submit any written objections by 4:00 p.m. EDT on Friday, April 24, 2009. In addition, counsel shall submit by 4:00 p.m. EDT on Friday, April 24, 2009, any supplemental briefs concerning (i) plaintiff's retaliation defense to defendants' counterclaim, and/or (ii) whether plaintiff was an independent contractor or an employee at the time of the alleged breach of contract.¹ Counsel may submit documents to the Court via e-mail, but if they wish for such documents to be made part of the record in the case, they must separately file them via CM/ECF.

(2) The Court will advise prospective jurors that trial in this case is anticipated to last four (4) days, excluding the time for jury selection. The Court will allot trial time to the parties as follows: (i) plaintiff will have two (2) days (the equivalent of ten (10) hours); and (ii) defendants will have two (2) days (the equivalent of ten (10) hours). Each party's time

¹ Counsel have agreed that plaintiff's cause of action for breach of contract accrued at the time of the breach, and that plaintiff's status as independent contractor or employee must be evaluated as of the time of the breach.

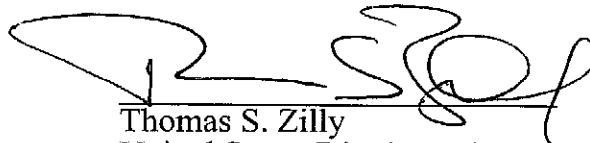
1 shall include opening and closing statements, direct examination of that party's witnesses,
2 and cross-examination of any other party's witnesses. For non-party witnesses, each party
3 will ask questions of such witnesses, even if such questions go beyond the scope of direct
examination, so that such witnesses need not be called more than once during the trial and
can be excused after their testimony is completed.

4 (3) Counsel have agreed that the transcripts of depositions of non-party witnesses
5 will be used only for purposes of impeachment. The Court therefore need not make any
advance rulings on objections contained in such transcripts.

6 (4) The Court will send counsel a proposed special verdict form before the
7 commencement of trial. Counsel will be advised during the afternoon on Friday, April 24,
8 2009, of the anticipated time that jury selection will begin on Monday, April 27, 2009. The
9 Court has discussed with counsel the Court's usual voir dire process, has provided to counsel
10 a list of the Court's anticipated voir dire questions, and has shown to counsel the Court's
standard peremptory challenge form. The Court has also discussed with counsel the Court's
general practices regarding exhibits. Counsel are directed to contact Gilberto Cardona at
(212) 805-0730 concerning the proper arrangements relating to exhibits. The Court has
signed the Pretrial Order, which will be separately docketed.

11 (5) The Clerk is directed to send a copy of this Minute Order to all counsel of
12 record.

13 Filed and entered this 23 day of April, 2009.

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15 Thomas S. Zilly
16 United States District Judge
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